

### **REMARKS**

Prior to entry of this amendment, claims 1-19 are pending in the subject application. By this amendment, claims 1-12 and 14-19 are amended, and claims 20-25 are added. Claims 1, 10, 12, 18 and 22-25 are independent.

Applicants note with appreciation the Examiner's consideration of applicants' Information Disclosure Statement, filed June 23, 2005.

Applicants request, in the next Office action, that the Examiner indicate the acceptability of the drawings filed on January 10, 2005.

Claims 1-25 are presented to the Examiner for further or initial consideration on the merits.

#### **A. Introduction**

In the outstanding Office action, the Examiner objected to claims 1-11 because of language informalities; rejected claims 1-5, 9, 12-14, 17, and 19 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 7,020,110 to Walton et al. (hereinafter referred to as "the Walton et al. reference"); and objected to claims 6-8, 10-11, 15-16, and 18 as being dependent upon a rejected base claim, but indicated that they would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

These objections and rejections are respectfully traversed for at least the following reasons.

#### **B. Asserted Objection to Claims 1-11**

In the outstanding Office action, the Examiner objected to claims 1-11 because of language informalities. These claims have been amended as suggested by the Examiner. Therefore, it is respectfully requested that this objection be withdrawn.

#### **C. Asserted Anticipation Rejection of Claims 1-5, 9, 12-14, 17, and 19**

In the outstanding Office action, the Examiner rejected claims 1-5, 9, 12-14, 17, and 19 under 35 U.S.C. § 102(e) as being anticipated by the Walton et al. reference. This rejection is respectfully traversed for at least the reasons set forth below.

Claim 1 now recites, in part, that the base station:

selects from among the data of all of the mobile stations the data of  
each of the desired mobile stations based on the mobile station selection  
information,

extracts from the selected data an amount of data of each of the desired mobile stations based on a predetermined bit size of each of the desired mobile stations, and

combines the extracted data into frames with respect to each of the desired mobile stations

While the scheduler 834 of the Walton et al. reference may select terminals for downlink, the Walton et al. reference fails to disclose or suggest extracting an amount of data based on a predetermined bit size of each of the desired mobile stations and combining the extracted data into frames, as now recited in claim 1, and was previously included as part of claim 5. As noted, for example, in paragraph [0073] of the published application, use of such frames may cheaply improve throughput. Claim 12 parallels claim 1 in method form, and is similarly believed to be allowable. Therefore, it is respectfully submitted that claims 1 and 12 define the present invention over the Walton et al. reference.

Claim 10 has been written in independent form, without the limitations of intervening claim 9 or the data restoration unit. Claim 9 now instead depends from claim 10. Claim 10 was indicated as containing allowable subject matter. Similarly, claim 18 has been written in independent form, without the limitations of intervening claim 17 or restoring steps. Claim 17 now instead depends from claim 18. Claim 18 was indicated as containing allowable subject matter.

The remaining rejected claims depend from respective ones of claims 1, 10, 12 and 18, and are believed to be allowable for at least the reasons set forth above. Therefore, it is respectfully requested that this rejection be withdrawn.

D. New Claims

Dependent claim 20 has been added to recite a limitation cancelled from claim 10, and dependent claim 21 has been added to recite a limitation cancelled from claim 18.

Independent claims 22 and 24 have been added to recite only the base station and associated method, respectively, while independent claims 23 and 25 have been added to recite only the mobile station, respectively.

E. Allowable Subject Matter

Applicants note with appreciation the Examiner's indication of allowable subject matter in claims 6-8, 10-11, 15-16, and 18. However, it is respectfully submitted that all of the claims are in condition for allowance for at least the reasons set forth above.

F. Conclusion

The remaining documents cited by the Examiner were not relied upon to reject the claims. Therefore, no comments concerning these documents are considered necessary at this time.

If the Examiner believes that additional discussions or information might advance the prosecution of the instant application, the Examiner is invited to contact the undersigned at the telephone number listed below to expedite resolution of any outstanding issues.

In view of the foregoing amendments and remarks, reconsideration of this application is earnestly solicited, and an early and favorable further action upon all the claims is hereby requested.

Respectfully submitted,

LEE & MORSE, P.C.

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PETITION and  
DEPOSIT ACCOUNT CHARGE AUTHORIZATION

This document and any concurrently filed papers are believed to be timely. Should any extension of the term be required, applicant hereby petitions the Director for such extension and requests that any applicable petition fee be charged to Deposit Account No. 50-1645.

If fee payment is enclosed, this amount is believed to be correct. However, the Director is hereby authorized to charge any deficiency or credit any overpayment to Deposit Account No. 50-1645.

Any additional fee(s) necessary to effect the proper and timely filing of the accompanying-papers may also be charged to Deposit Account No. 50-1645.